United Nations S/2001/1221

Security Council

Distr.: General
21 December 2001
English
Original: French

Letter dated 19 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Kuwait, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman of the Counter-Terrorism Committee

01-70975 (E) 271201 271201

Annex

Letter dated 19 December 2001 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: Arabic]

On instructions from my Government I have the honour to transmit to you herewith the report of the Government of Kuwait to the Counter-Terrorism Committee, submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001).

(*Signed*) Mansour Ayyad Sh. A. **Al-Otaibi**
Chargé d'affaires a.i.

Enclosure

Report submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

Kuwait is fully committed to cooperation with the United Nations, its Member States and the Security Council Committee established pursuant to resolution 1373 (2001) on combating international terrorism. The State of Kuwait reaffirms its support for international efforts to implement Security Council resolution 1373 (2001) and all other relevant legal instruments on counter-terrorism.

Other comments relating to specific questions raised by the Counter-Terrorism Committee:

Operative paragraph 1

Subparagraph (a): What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

The measures adopted in the State of Kuwait to prevent and suppress the financing of terrorist acts are as follows:

Kuwait is bound by international treaties and conventions on international terrorism and has concluded bilateral agreements relating to security.

The Council of Ministers recently issued its decision No. 867, adopted at its meeting 2001/36, held on 7 October 2001, which requires the control of the work of charitable committees with respect to the projects which they have decided to carry out abroad. Accordingly, a supreme ministerial committee for the control of charitable work at home and abroad has been formed, in addition to the creation of a subcommittee chaired by the Ministry of Social Affairs and Labour to regulate the work of charitable organizations and committees.

Subparagraph (b): What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The Kuwaiti penal code considers as criminal offences acts and activities likely to cause terror or fear and sabotage committed against the regular authorities of the State.

Subparagraph (c): What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

The procedures followed in this regard consist in the freezing, without delay, of the property and any financial assets or economic resources of persons who commit, attempt to commit or participate in or facilitate the commission of terrorist acts, of entities directly or indirectly owned or controlled by such persons and of persons or entities that work for the account of such persons or entities or act on their instructions, including assets derived from property owned by such terrorists and persons and entities connected with them and assets produced by such property.

Regarding legislation, in addition to our response to the question relating to operative paragraph 1, subparagraph (c), the Government of Kuwait has prepared a legislative bill to combat money-laundering operations, which is about to be issued by the National Council. The bill establishes the cases which constitute the crime of money-laundering, the obligation of financial institutions and Government offices in that regard and the penalties applicable.

Subparagraph (d): What measures exist to prohibit the activities listed in this subparagraph?

The measures adopted in Kuwait to prohibit terrorist activities are as follows:

The Central Bank of Kuwait imposes, either directly or indirectly, a prohibition on property, financial assets, economic resources or financial or other services available to nationals of States or to persons or entities and capable of being used by them to finance persons who commit, attempt to commit or participate in or facilitate the commission of terrorist acts, entities directly or indirectly owned or controlled by such persons or persons or entities that act on behalf or on the instructions of such persons.

In that regard, the Central Bank has issued a number of circulars on this subject, such as that dated December 1999 concerning the freezing of assets and other financial resources directly or indirectly connected with the Taliban movement, adopted pursuant to Security Council resolution 1267 (1999).

In addition, in 1993 the Central Bank issued instructions to all units subordinate to it, namely banks, investment companies and money-changing companies, on combating the laundering of money derived from major crimes. Those instructions were updated in 1997 and 1998. In addition, the Bank prepared instructions to cover all banking and financial aspects included in the 40 recommendations issued by Financial Action Task Force on Money-Laundering.

Operative paragraph 2

Subparagraph (a): What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

The Kuwaiti penal code, as amended, considers as criminal offences a number of acts and activities that can be classified as terrorist acts, as follows:

Article	*Text of the article*	*Penalty*
170	The crime of hijacking ships, aircraft or any other means of maritime or air transport for the purpose of causing harm to persons or things	Five to 15 years' imprisonment
171	The crime of threatening the lives of persons or things transported on public roads with destruction thereof or with the giving of hijacking instructions or exhortations	Five to 15 years' imprisonment
249/250	The crime of destroying public facilities and public resources	Imprisonment
251	The crime of sinking or damaging ships	Seven to 10 years' imprisonment
252	Acts of piracy at sea, consisting in the attacking of vessels on the high seas for the purpose of taking possession thereof or of goods carried thereon	Imprisonment
4	The crime of assembling an army without the permission of the Government	Not less than 3 years' imprisonment
29	The crime of incitement to overthrow the regime by force	More than 10 years' imprisonment
30	The crime of participating in banned organizations	Ten to 15 years' imprisonment
34	The crime of participating in assembly for the purpose of committing crime or assembly involving a breach of public order	One to 5 years' imprisonment
35	The crime of using explosive substances to kill persons, to create panic or to cause destruction	Imprisonment
Law No. 1991/13	Prohibition against the unauthorized possession of weapons and ammunition of any type or size	Five to 7 years' imprisonment, with doubling of the penalty in case the offence is repeated
Law No. 1994/6	Crimes relating to the safety of aircraft and aviation	

Subparagraph (b): What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

The steps taken are as follows:

Intensification of monitoring and investigation of elements suspected of involvement in terrorist activities.

Commitment under a number of international, Arab or bilateral agreements (on security matters) relating to the fight against terrorism.

Available early warning mechanisms to allow exchange of information with other States include the rapid exchange of communications with the States with which the above-mentioned agreements have been concluded, with hotlines being made available, partly under previously concluded security agreements that include relevant provisions.

Subparagraph (c): What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph?

First of all, we wish to commend the Kuwaiti constitution for the provision, contained in its article 28, that no Kuwaiti shall be banished from or prevented from returning to Kuwait.

Kuwaiti residence law 1959/17 provides that no foreigner shall enter, leave or reside in the country without a valid passport and visa.

The same law provides, in its section on expulsion of foreigners from the country, that such expulsion shall be permissible in the event that a judicial decision calling for such expulsion has been handed down or for reasons of public interest, security or morality.

In addition, Kuwaiti criminal law No. 1960/16 provides that the penalty of expulsion from Kuwait of a foreigner proven guilty of committing unlawful acts may be applied after he has completed the prison sentence.

Subparagraph (d): What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

The Kuwaiti penal code, in article 4 of law No. 1970/31, as amended, prohibits any hostile act against a foreign State that might expose the State of Kuwait to the risk of war or the severance of diplomatic relations and provides for a penalty of not less than three years' imprisonment.

Subparagraph (e): What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

For the response to this question, see our responses under 2 (a) and 2 (d).

Subparagraph (f): What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

Procedures and mechanisms in place to assist other States involve the provision of such assistance through agreements concluded with them which include clauses relating to the provision of assistance or, at the request of such other State, direct assistance to the extent permitted under national laws.

In addition, other States are provided with the greatest possible assistance in connection with investigations or criminal procedures relating to the financing or supporting of terrorist acts and such assistance is exchanged if so requested.

Subparagraph (g): How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc?

Passport law No. 1962/11 establishes the criteria for the obtainment of official passports by Kuwaitis and the entry and exit of persons, both Kuwaiti and foreign, into and from the country, as well as the penalties for forgery or falsification of those important documents.

Regarding operations to prevent the movement of terrorists across the borders and the related controls, the competent authorities in the State of Kuwait perform their duties to prevent illegal entry into and exit from the country, including by suspected persons and those sought by the judicial authorities, and to place their names on record at points of entry and exit by sea, land and air.

Procedures for the issue of identity papers and travel documents and the prevention of their forgery and falsification involve the imposition of controls, especially for travel and identity documents. In addition, every passport has its own number which indicates its holder and all information pertaining to its bearer is systematically entered and stored in computers in the Ministry. Furthermore, such documents are printed using a secure, state-of-the-art process so as to prevent their being forged, and special forgery-detecting equipment has been provided.

Operative paragraph 3

Subparagraph (a): What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

The steps taken — with regard to security — in this area involve the exchange of information among the competent authorities in the country concerning the entry and exit of certain suspected persons who are a danger to the country, while maintaining the utmost secrecy, until they are apprehended.

The security authorities in the State of Kuwait also make hotlines available to the competent security bodies with a view to communications and the exchange of information in this area, in addition to exchanging visits and expertise with delegations of other countries.

This cooperation takes place in accordance with the legal and judicial cooperation treaties concluded between the State of Kuwait and other States which provide therefor. In cases where no legal and judicial cooperation treaties exist between Kuwait and any other country, the principle of reciprocity must be applied.

Subparagraph (b): What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

In addition to what has been stated in the response relating to operative paragraph 3, subparagraph (a), Kuwait responds to all inquiries concerning terrorism and counter-terrorist action addressed to it by international bodies and organizations through the competent authorities in the State of Kuwait.

The Central Bank of Kuwait engages in information exchange in accordance with international and local law and cooperation in the administrative and judicial fields with a view to the prevention of terrorist acts.

Subparagraph (c): What steps have been taken to cooperate in the areas indicated in this subparagraph?

Kuwait has concluded with a number of States bilateral agreements containing clauses relating to counter-terrorism and is currently studying the possibility of entering into bilateral agreements with other States. Kuwait also signed the Arab Anti-Terrorism Treaty on 22 April 1998.

Subparagraph (d): What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

We should like to point out that the State of Kuwait is currently completing the procedures for accession to the conventions in question, namely five international conventions out of an original 12, and specifically:

1. Convention on the Physical Protection of Nuclear Materials (1979);
2. International Convention for the Suppression of Terrorist Bombings (1998);
3. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);
4. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988);
5. International Convention for the Suppression of the Financing of Terrorism (1999).

Subparagraph (e): Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

In addition to the instruments mentioned in the above remarks relating to operative paragraph 3, subparagraph (d), Kuwait has acceded to seven conventions out of an original 12 mentioned above, namely:

1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (accession pursuant to decree-law 1988/72);

2. International Convention against the Taking of Hostages (accession pursuant to decree-law 1988/73);

3. Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963) (accession pursuant to decree-law 1979/64);

4. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (Montreal, 1988) (accession pursuant to decree-law 1988/71);

5. Convention on the Marking of Plastic Explosives for the Purpose of Detection;

6. Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970) (accession pursuant to decree-law 1979/19);

7. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971) (accession pursuant to decree-law 1979/64).

Subparagraph (f): What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

We are prepared to answer this question once the necessary relevant data are complete.

Subparagraph (g): What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of suspected terrorists. Please supply examples of any relevant cases.

For the reply to this question, refer to our response under operative paragraph 3, subparagraph (e).